

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**TIMOTHY B. HARR,**

Petitioner,

v.

Civ. Act. No. 08-247-SLR

**PERRY PHELPS, Warden,  
and ATTORNEY GENERAL OF  
THE STATE OF DELAWARE,**

Respondents.

**MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondents move for an extension of time in which to file an answer to the petition. In support thereof, respondents state the following:

1. The petitioner, Timothy Harr, has applied for federal habeas relief, challenging his guilty pleas to two counts of first degree rape. The answer to the petition is due July 21 (DI 9 & 10).
2. Counsel has completed the necessary research and has obtained the relevant state court records. However, counsel has been out of the office for several days in the past four weeks because of illness. As a result of those medical absences, counsel has not been able to complete the answer in the instant case. Counsel was also required to finish work on state post-conviction answers in several first degree murder cases. Counsel however anticipates that the answer in the instant case can be completed by July 25
3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9<sup>th</sup> Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985). The comment to

Rule 4 expressly states that the district court has "the discretion to take into account various factors such as the respondent's workload" in determining the period of time that should be allowed to answer the petition.

4. This is respondents' first request for an extension of time in this case.
5. Respondents submit that an extension of time to and including July 25, 2008, in which to file an answer is reasonable. Respondents submit herewith a proposed order.



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July 25, 2008

**RULE 7.1.1 CERTIFICATION**

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is in the custody of the Delaware Department of Correction and appearing *pro se*, to the subject matter of this motion.

  
Deputy Attorney General  
Counsel for Respondents

July 21, 2008

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FOR THE DISTRICT OF DELAWARE

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v.

Civ. Act. No. 08-247-SLR

**PERRY PHELPS, Warden,  
and the ATTORNEY GENERAL  
OF THE STATE OF DELAWARE,**

Respondents.

**ORDER**

This \_\_\_\_ day of \_\_\_\_\_, 2008,

WHEREAS, respondents having requested an extension of time in which to file an answer, and

WHEREAS, it appearing to the Court that the requested extension is timely made and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondents' answer shall be filed on or before July 25, 2008.

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United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on July 21, 2008, I electronically filed the attached document (Motion for Extension of Time) with the Clerk of Court using CM/ECF. I also hereby certify that on July 21, 2008, I have caused to be delivered by the United States Postal Service two copies of the same document to the following non-registered participant:

Timothy b. Harr  
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